

REMARKS

Claims 1-9 and 21-28 are pending. Claims 26-28 are allowed. Claims 1-9 stand rejected.

Claim 1 has been amended to correct the typographical error "bore connector," which has been corrected to "connector bore". Claim 3 has also been corrected in accordance with the amendment made to it, thereby obviating the objection to it.

Claims 7 and 8 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite. In accordance with the foregoing amendments, Applicant has corrected claims 7 and 8 and respectfully requests withdrawal of the rejection.

Claims 1-3, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sluetz (U.S. Re. 31,990) in view of Doan (U.S. 7,031,774) and in view of Goldreyer (U.S. 4,365,639). Claim 4 stands rejected as being unpatentable over the combination of Sluetz, Doan and Goldreyer in view of Bischoff (U.S. 5,843,141), and claim 6 stands rejected as being unpatentable over the combination of Sluetz, Doan and Goldreyer in view of Peers-Trevarton (U.S. 4,469,104). In the previous response, Applicant articulated distinctions between the pending claims and the cited references, hereby incorporated herein by reference. In the Final Office Action of February 21, 2008, the Examiner has maintained the rejection holding that it would be obvious to modify the Sluetz invention by providing a sliding electrode selection means as taught by Doan wherein at each position of the lead connector, a first contact and third contact are electrically connected to the pulse generator and a second contact is disconnected from the pulse generator.

In response, Applicant argued that Sluetz teaches changing the connection of lead electrodes to a stimulator to reverse the polarities of the electrodes at the distal end of the lead body. Sluetz does not teach or suggest selecting which electrodes at the distal end of the lead body are connected to the stimulator and which electrodes are not connected to the stimulator. Two different positions of the connector assembly in the female connector assembly allow the electrode interconnections to be interchanged such that both of the two distal electrodes are always coupled to the stimulator, but in a manner that reverses their polarities. Sluetz does not disclose repositioning of the lead connector such that one of the distal electrodes that was coupled to the stimulator is no longer electrically coupled to the stimulator.

Doan on the other hand teaches selecting one of two different pairs of electrodes. A lead body has two pairs of stationary contacts on the lead body and a boot is slidably disposed on the lead body between first and second positions such that one of the pairs of stationary contacts is connected to terminal contacts on a proximal lead connector and the other pair is not connected to the terminal contacts. The stationary contacts are not on the proximal lead connector 24 but on the lead body, which must slide through the boot and out the other end as shown in Figures 4 and 5 in order to connect the proximal lead connector to a stimulation device. Proximal lead connectors 24 and 26 connect to a stimulation device with each terminal contact 70 and 72 and 74 and 76 of the lead connectors 24 and 26 electrically connected to the stimulation device.

The Examiner's stated rejection characterized the boot in Doan as being "a sliding electrode selection means." The Examiner then contended that it would have been obvious to modify Sluetz by providing it with that means (i.e., Doan's boot 60). Applicant argued that by so combining Sluetz and Doan, at most what results is an arrangement wherein the polarity of each of the two Sluetz electrodes 68 and 69 is reversed using Doan's sliding boot. That is, connector 24 in Doan would be plugged into

the device header 8 of Sluetz for connection to contacts 16 and 17. Electrode 68 would somehow be connected to Doan's stationary contacts 52 and 58. Electrode 69 would somehow be connected to Doan's stationary contacts 54 and 56. If mobile contact 62 selected to be of "+" polarity and contact 64 is then of "-" polarity, when in the position shown in Fig. 4 of Doan, electrode 68 is connected to "+" and electrode 69 is connected to "-". When the boot slides along the lead body to the position shown in Fig. 5, electrode 68 becomes connected to "-" polarity contact 64 and electrode 69 is connected to "+" polarity contact 62. However, all of the proximal lead connector 24 terminal contacts 74, 76 that are plugged into the female connector bore of the stimulator header will remain electrically connected to the stimulator, as taught by both Sluetz and Doan. As such the combination of Sluetz and Doan does not meet the claim language as a whole including "at each position of the lead connector within the connector bore ... a second one of the lead connector contacts that is inside the connector bore and the corresponding electrode joined to the second one of the lead connector contacts are electrically disconnected from the pulse generator." Goldreyer, Bischoff and Peers-Traverton do not remedy the deficiency of the combination of Sluetz and Doan relating to a second lead connector contact that is inside the connector bore of the pulse generator header and the corresponding electrode joined to the second lead connector contact electrically disconnected from the pulse generator. For at least this reason, Applicant submitted that the rejection was improper and should be withdrawn.

In the Advisory Action of May 2, 2008, the Examiner recast the stated rejection in view of Applicant's meritorious arguments. Specifically, the Examiner recast the characterization of Doan as having "proximal lead contacts (52, 54, 56, and 58) that are selectively connected or disconnected from the stimulator." The stated rejection has been further recast to contend that Doan's boot should be substituted for header 8 in Sluetz.

In essence, the Examiner has improperly “cherry picked” aspects of Doan to substitute into Sleutz in a classic example of a “hindsight” reconstruction of the claimed invention. The “proximal lead contacts” in Doan are clearly identified as items 70, 72 and 74, 76 of connectors 24 and 26. The stationary contacts 52, 54, 56, and 58 are not “a teaching of proximal lead contacts” as stated by the Examiner. Doan expressly differentiates them from the connector terminal contacts 70, 72, 74 and 76. While the Examiner is free to construe the disclosure of what is expressly or inherently described in Doan, the Examiner is not allowed to re-write the disclosure teachings of Doan to suit the needs of a rejection. Nor is the Examiner permitted to distort Doan’s disclosure in direct contravention of the express written description setting forth Doan’s lead structure. Even if both Doan and Sluetz are in “the same field of endeavor,” a license is not thereby given to make an indiscriminate combination of them as is being done in the stated rejection. Without such rewriting of Doan, the combination of Slueta and Doan fails to “predictably” result in the claimed subject matter.

In addition, the Examiner overlooks in Doan that it is the boot “mobile contacts 62, 64 are movable between positions along the length of the lead 30 between stops 66 and 68 thereon (see Doan at col. 4, lines 63 to col. 5, line19). The claimed subject matter, however, specifies “the connector bore ... being adapted to **receive the lead connector** of the lead body at a plurality of positions **along the length of the connector bore** such that at each position of the lead connector within the connector bore.” This limitation defines that the header is stationary and the lead is movable between positions along the connector bore. Doan, however, teaches away from adoption of the boot as a header as it specifies that it is the boot that is movable relative to the lead body 30.

Finally, the Examiner’s substitution in Sluetz of the arrangement of stationary contacts 52, 54, 56, and 58 in Doan for the proximal lead connector contacts 5, 10 and 20 of Sluetz would mean that the four contacts would have to be wired in some fashion

to the two electrodes 68 and 69. Thus, the proximal connector assembly 1 in Sluetz would have to be re-wired in some way. Presumably, such re-wiring would be in accordance with Doan. But, Doan does not provide any description as to how the four stationary contacts, which are individually connected to four separate electrodes 44, 46, 48, and 50, would be wired to only two electrodes. Thus, the combination of Sluetz and Doan in the manner indicated by the Examiner in the Advisory Action fails to provide important and necessary disclosure to actually enable realization of an embodiment that modifies Sluetz with Doan. A rejection having prior art grounds insufficient to actually result in an embodiment and that provides nothing more than a mere verbal correspondence between the claim limitations and the prior art combination is flawed and cannot be properly advanced.

For the foregoing reasons, Applicant submits that the obviousness rejection is without merit and should be withdrawn. Applicant, therefore, respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

February 19, 2008
Date

/Carol F. Barry/
Carol F. Barry
Reg. No. 41,600
(763) 526-0932
Customer No. 27581